IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 2299 of 1997

Between:

Sathi Veerreddy, S/o Somireddy, Vedurupaka P.A.C.S., Rayavaram Mandal, E.G.Dist.

..... PETITIONER

AND

1 The Commissioner for Co-Operation & Registrar of Co-op .Societies, A.P., Hyderabad.
2 The District Co-Operative Officer, Kakinada, E.G.Dist.
3 The Person In-charge, PACS, Vedurupaka, Rayavaram Mandal, E.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or any other appropriate writ more particularly in nature of writ of mandamus declaring the action of respondents 2 & 3 in not implementing the orders of the 1st respondent give in Rc.68334/96/K2, dt.12/12/96 in terms of the circular No.73089/92/PACS.K2, DT.30/12/93 as illegal, arbitrary, violative of principles of natural justice and without jurisdiction and for a consequential order directing the respondents 2 & 3 to implement the orders of the 1st respondent forthwith by quashing the order of the 3rd respondent Rc.No.2/96-97, dt.25-1-97

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the proceedings of the third respondent dated 25.01.1997, which according to the petitioner, is contrary to the orders issued by the first respondent.

2. The petitioner is a Paid Secretary and was posted with the third respondent. By the impugned order dated 25.01.1997, the petitioner was asked to relieve himself by handing over the charge to one Mr.K.Viswanadham, who was working as an Additional Secretary and the petitioner was advised to approach the District Cooperative Officer, Kakinada-second respondent for further orders as to his posting. The grievance of the petitioner is that such an order is clearly illegal and unsustainable as it is contrary to the proceedings issued by the first respondent, which was communicated to all the District Cooperative Officers. The said proceedings is dated 12.12.1996 in which it was stated that there is no provision for transfer of Paid Secretaries irrespective of de-caderisation as they are the life-long employees of PACS to which they are allotted or in which they are working. The communication further states that the District Cooperative Officer is not empowered to transfer the Paid Secretaries. The said clarification was issued with reference to the third respondent Society. In fact, it is stated that when an order was passed by the second respondent, on 10.12.1996, the petitioner made a representation to the first respondent, pursuant to which, the clarification dated 12.12.1996 was issued. Therefore, it is contended that the impugned order passed by the third respondent is contrary to the clarification issued by the first respondent dated 12.12.1996 and sought for quashing of the impugned order dated 25.01.1997.

3. The learned Government Pleader for Cooperation, however,

contended that there is a remedy of appeal against the said order or in the absence of appeal, the petitioner as well can approach the Registrar by way of revision and in the absence of such proceedings being taken up by the petitioner, the present writ petition is not maintainable. However, on merits the learned Government Pleader has fairly conceded that the District Cooperative Officer has no power to transfer the petitioner, or the third respondent to direct the petitioner to relieve himself from the post of Paid Secretary of the third respondent PACS.

4. Heard both sides and considered the material on record.

5. Admittedly, the third respondent issued proceedings dated 25.01.1997 obviously intending to implement the orders passed by the second respondent under which the petitioner was sought to be transferred from the Society where he was working as a Paid Secretary. Against the order passed by the second respondent, it is represented that the petitioner approached the first respondent upon which a clarification dated 12.12.1996 was communicated to the second respondent under which the second respondent was informed that he has no power to transfer the Paid Secretary of a PACS. In spite of it, the third respondent issued the impugned order dated 25.01.1997, which also goes contrary to the clarification issued by the first respondent. Therefore, the impugned proceedings of the third respondent which is in contravention of the clarification issued by the first respondent dated 12.12.1996, is illegal and unsustainable.

6. Under the above circumstances, the said proceedings of the third respondent dated 25.01.1997 is set aside and the writ petition is accordingly disposed of. No costs.

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30.07.2004

VGB

To

1 The Commissioner for Co-Operation & Registrar of Co-op .Societies, A.P., Hyderabad.
2 The District Co-Operative Officer, Kakinada, E.G.Dist.
3 The Person In-charge, PACS, Vedurupaka, Rayavaram Mandal, E.G.Dist.

4 2CCs to the Govt. Pleader for Cooperation, High Court Buildings, Hyderabad (OUT)

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